

**Assembly Bill No. 2055**

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Passed the Assembly August 24, 2004

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*Chief Clerk of the Assembly*

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Passed the Senate August 19, 2004

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day of  
\_\_\_\_\_, 2004, at \_\_\_\_\_ o'clock \_\_M.

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*Private Secretary of the Governor*



## CHAPTER \_\_\_\_\_

An act to amend Sections 65302, 65560, 65561, 65562, 65564, and 65566 of, and to add Section 65565 to, the Government Code, relating to land use.

## LEGISLATIVE COUNSEL'S DIGEST

AB 2055, Wolk. General plan elements.

Existing law requires every city and county to prepare, adopt, and amend a general plan stating development policies and including specified elements, including a conservation element and an open-space element. Existing law provides that no building permit may be issued, no subdivision map approved and no open-space zoning ordinance adopted unless the proposed construction, subdivision, or ordinance is consistent with the local open-space plan.

This bill would provide that the conservation element may include the conservation of agricultural lands. The bill would provide that the open-space element, which the bill would rename as the agricultural and open-space element, is the component of a county or city general plan adopted by the legislative body, as specified, and would provide subjects that may be included in the agricultural and open-space element. The bill would make other technical, nonsubstantive changes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 65302 of the Government Code is amended to read:

65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land.



The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify areas covered by the plan that are subject to flooding and shall be reviewed annually with respect to those areas. The land use element shall also do both of the following:

(1) Designate in a land use category that provides for timber production those parcels of real property zoned for timberland production pursuant to the California Timberland Productivity Act of 1982, Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5.

(2) Consider the impact of new growth on military readiness activities carried out on military bases, installations, and operating and training areas, when proposing zoning ordinances or designating land uses covered by the general plan for land, or other territory adjacent to military facilities, or underlying designated military aviation routes and airspace.

(A) In determining the impact of new growth on military readiness activities, information provided by military facilities shall be considered. Cities and counties shall address military impacts based on information that the military provides.

(B) The following definitions govern this paragraph:

(i) “Military readiness activities” mean all of the following:

(I) Training, support, and operations that prepare the men and women of the military for combat.

(II) Operation, maintenance, and security of any military installation.

(III) Testing of military equipment, vehicles, weapons, and sensors for proper operation or suitability for combat use.

(ii) “Military installation” means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the United States Department of Defense as defined in paragraph (1) of subsection (e) of Section 2687 of Title 10 of the United States Code.

(b) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, any military airports and ports, and other local public utilities and facilities, all correlated with the land use element of the plan.



(c) A housing element as provided in Article 10.6 (commencing with Section 65580).

(d) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. The conservation element shall consider the effect of development within the jurisdiction, as described in the land use element, on natural resources located on public lands, including military installations. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies that have developed, served, controlled or conserved water for any purpose for the county or city for which the plan is prepared. Coordination shall include the discussion and evaluation of any water supply and demand information described in Section 65352.5, if that information has been submitted by the water agency to the city or county. The conservation element may also cover the following:

- (1) The reclamation of land and waters.
- (2) Prevention and control of the pollution of streams and other waters.
- (3) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.
- (4) Prevention, control, and correction of the erosion of soils, beaches, and shores.
- (5) Protection of watersheds.
- (6) The location, quantity and quality of the rock, sand and gravel resources.
- (7) Flood control.
- (8) Conservation of agricultural lands.

The conservation element shall be prepared and adopted no later than December 31, 1973.

(e) An agricultural and open-space element as provided in Article 10.5 (commencing with Section 65560).

(f) A noise element which shall identify and appraise noise problems in the community. The noise element shall recognize the guidelines established by the Office of Noise Control in the State Department of Health Services and shall analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for all of the following sources:



- (1) Highways and freeways.
- (2) Primary arterials and major local streets.
- (3) Passenger and freight on-line railroad operations and ground rapid transit systems.
- (4) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.
- (5) Local industrial plants, including, but not limited to, railroad classification yards.
- (6) Other ground stationary noise sources, including, but not limited to, military installations, identified by local agencies as contributing to the community noise environment.

Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average level ( $L_{dn}$ ). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

(g) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence, liquefaction and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of the Public Resources Code, and other geologic hazards known to the legislative body; flooding; and wild land and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, military installations, peakload water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards. Prior to the



periodic review of its general plan and prior to preparing or revising its safety element, each city and county shall consult the Division of Mines and Geology of the Department of Conservation and the Office of Emergency Services for the purpose of including information known by and available to the department and the office required by this subdivision.

To the extent that a county's safety element is sufficiently detailed and contains appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's safety element that pertains to the city's planning area in satisfaction of the requirement imposed by this subdivision.

At least 45 days prior to adoption or amendment of the safety element, each county and city shall submit to the Division of Mines and Geology of the Department of Conservation one copy of a draft of the safety element or amendment and any technical studies used for developing the safety element. The division may review drafts submitted to it to determine whether they incorporate known seismic and other geologic hazard information, and report its findings to the planning agency within 30 days of receipt of the draft of the safety element or amendment pursuant to this subdivision. The legislative body shall consider the division's findings prior to final adoption of the safety element or amendment unless the division's findings are not available within the above prescribed time limits or unless the division has indicated to the city or county that the division will not review the safety element. If the division's findings are not available within those prescribed time limits, the legislative body may take the division's findings into consideration at the time it considers future amendments to the safety element. Each county and city shall provide the division with a copy of its adopted safety element or amendments. The division may review adopted safety elements or amendments and report its findings. All findings made by the division shall be advisory to the planning agency and legislative body.

SEC. 2. Section 65560 of the Government Code is amended to read:

65560. (a) The agricultural and open-space element is the component of a county or city general plan adopted by the legislative body pursuant to Section 65563.



(b) “Agricultural and open-space land” is any parcel or area of land or water that is essentially unimproved and devoted to one or more land uses as defined in this section, and that is designated on a local, regional or state open-space plan as any of the following:

(1) Land used for the preservation of natural resources including, but not limited to, areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays and estuaries; areas adjacent to military installations, military training routes, and restricted airspace that can provide additional buffer zones to military activities and complement the resource values of the military lands; and coastal beaches, lakeshores, banks of rivers and streams, and watershed lands.

(2) Land used for the production of food or fiber, including, but not limited to, prime farmland, farmland of statewide importance, unique farmland, farmland of local importance, and grazing land, excluding land committed to nonagricultural uses.

(3) Land used for the managed production of resources, including, but not limited to, forest lands; areas required for recharge of groundwater basins; bays, estuaries, marshes, rivers and streams which are important for the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply.

(4) Land for outdoor recreation, including but not limited to, areas of outstanding scenic, historic and cultural value; areas particularly suited for park and recreation purposes, including access to lakeshores, beaches, and rivers and streams; and areas which serve as links between major recreation and open-space reservations, including utility easements, banks of rivers and streams, trails, and scenic highway corridors.

(5) Land for public health and safety, including, but not limited to, areas which require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, flood plains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs and areas required for the protection and enhancement of air quality.



(6) Land for the protection of places, features, and objects described in Sections 5097.9 and 5097.995 of the Public Resources Code.

SEC. 3. Section 65561 of the Government Code is amended to read:

65561. The Legislature finds and declares as follows:

(a) The preservation of agricultural and open-space land, as defined in this article, is necessary not only for the maintenance of the economy of the state, but also for the assurance of the continued availability of land and water for the production of food and fiber, for the enhancement and protection of wildlife habitat, for the enjoyment of scenic beauty, for recreation, and for the use of natural resources.

(b) Wildlife habitat and agriculture can be compatible land uses, and local jurisdictions should encourage both agriculture and habitat and use cooperative strategies to achieve this when appropriate.

(c) Discouraging premature and unnecessary conversion of agricultural and open-space land to urban uses is a matter of public interest and will be of benefit to urban dwellers because it will discourage noncontiguous development patterns which unnecessarily increase the costs of community services to community residents.

(d) The anticipated increase in the population of the state demands that cities, counties, and the state at the earliest possible date make definite plans for the preservation of valuable agricultural and open-space land and take positive action to carry out those plans by the adoption and strict administration of laws, ordinances, rules and regulations as authorized by this chapter or by other appropriate methods.

(e) In order to assure that the interests of all its people are met in the orderly growth and development of the state and the preservation and conservation of its resources, it is necessary to provide for the development of agricultural and open-space elements for the conservation and preservation of agricultural and open-space lands.

(f) For these reasons this article is necessary for the promotion of the general welfare and for the protection of the public interest in agricultural and open-space land.



SEC. 4. Section 65562 of the Government Code is amended to read:

65562. It is the intent of the Legislature in enacting this article to provide a mechanism for considering all of the following:

(a) Assure that cities and counties, local agency formation commissions, and the state recognize that agricultural and open-space land is a limited and valuable resource that must be conserved for ecological and economic reasons wherever possible.

(b) Encourage long-term preservation of natural resources for plant and animal life and promote sustainable ecosystems that protect and enhance the quality of life within the state.

(c) Encourage the managed production of resources by ensuring that the importance of long-term viability of agricultural land and other resource-based economic development is recognized in the plans and actions of state and local entities, where appropriate, and that the quantity, quality, and diversity of agricultural commodities produced within the state are supported by conserving land resources upon which these resources rely, where conservation is appropriate consistent with other goals set forth in the general plan.

(d) Provide adequate opportunities for passive and active outdoor recreation areas that include urban parks, to promote the health and general welfare of the citizenry.

(e) Identify special areas that may, consistent with other elements, require special management for public health and safety to keep urban uses out of harm's way and minimize costs of emergency response.

(f) Minimize or avoid the premature or unnecessary loss of agricultural and open-space lands, while encouraging opportunities that are compatible with or complementary to other existing or planned uses or infrastructure.

SEC. 5. Section 65564 of the Government Code is amended to read:

65564. Every local agricultural and open-space element shall contain an action program consisting of specific programs that the legislative body intends to pursue in implementing its agricultural and open-space plan.

SEC. 6. Section 65565 is added to the Government Code, to read:



65565. The agricultural and open-space element may include, but is not limited to, any of the following:

(a) A land inventory identifying the type and use of the following:

(1) Land under a natural communities conservation plan or habitat conservation plan, publicly owned land that constitutes a linkage or corridor between habitat areas, and land subject to a conservation easement or other enforceable restriction for the purposes of ecosystem protection, buffers for military installations, and sensitive lands that provide clean air and water.

(2) Agricultural land using existing data submitted pursuant to Section 65570, including Williamson Act contracted land and Farmland Security Zones, as identified in Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5.

(3) Resource-based managed lands, including areas for timber production and mining and timberland production zones.

(4) Lands designated for passive and active outdoor recreation, that include regional or urban parks where appropriate, for the purpose of providing greater access to recreation and open-space for all citizens.

(5) Land that, for reasons of public health and safety, requires special management to avoid placing urban uses in areas subject to natural hazards including, but not limited to, flood, fire, landslide, and seismic activities that increase emergency response costs.

(b) Goals, objectives, and policies that support the long-term conservation of agricultural and other open-space lands, and appropriate implementation measures including, but not limited to, measures that seek to avoid or minimize conflicts with authorized urban uses on neighboring or nearby lands, and preserve opportunities for food security through local food production that sustains family farming operations.

(c) Goals, objectives, and policies that support and encourage continuation or initiation of agricultural and open-space use, and opportunities, especially in urban and transitional areas, where appropriate and compatible, and appropriate implementation measures, including, but not limited to, provision of incentives, removal of disincentives, design solutions, and conjunctive uses.

(d) Goals, objectives, and policies that support agricultural and open-space uses by identifying and addressing possible conflicts



between existing and planned local and regional infrastructure and adopted agricultural and open-space priorities, including, but not limited to, implementing measures that discourage the premature or unnecessary extension of urban services to agricultural and open-space lands.

(e) Goals, objectives, and policies that support agricultural and open-space uses by identifying and addressing possible beneficial relationships between existing and planned local and regional infrastructure and adopted agricultural and open-space priorities, including, but not limited to, implementing measures that take advantage of opportunities to enhance or promote compatible agricultural or open-space uses.

(f) To implement Section 65300.7 and to accommodate the diversity of circumstances within a jurisdictional boundary, the element may contain different measures for different areas and for different types of agricultural and open-space uses, including, but not limited to, conjunctive, or transitional uses, and different physical land uses.

(g) The land categories listed in subdivision (a) are not intended to be mutually exclusive with respect to lands to which they apply. The land inventory is for planning purposes only and, in and of itself, does not increase restrictions on the use of the land.

SEC. 7. Section 65566 of the Government Code is amended to read:

65566. Any action by a county or city by which agricultural and open-space land or any interest therein is acquired or disposed of or its use restricted or regulated, whether or not pursuant to this part, must be consistent with the local agricultural and open-space element.

SEC. 8. (a) In enacting Sections 1 to 7, inclusive, of this act, the Legislature is mindful of Section 65300.7 and subdivision (c) of Section 65301 of the Government Code, which allow counties and cities to implement the agricultural and open-space elements of their general plans in ways that accommodate local conditions and circumstances, while meeting minimum requirements.

(b) The amendments to Section 65562 and 65565 of the Government Code made by this act are intended by the Legislature to be permissive and prospective, and shall not be construed to place any existing open-space element of a general plan out of conformity with the statute. If a county or a city voluntarily revises



its general plan or the agricultural and open-space element of its general plan pursuant to Sections 65562 and 65565 of the Government Code, those provisions do not constitute a state-mandated local program for the purposes of reimbursement by the state.

(c) If a county or a city makes no further amendments to its agricultural and open-space element of its general plan, other than changes in nomenclature required by Article 10.5 (commencing with Section 65560) of Chapter 3 of Division 1 of Title 5 of the Government Code, those actions shall be considered ministerial.



Approved \_\_\_\_\_, 2004

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*Governor*

